

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #7	CCRB Case #: 201903361	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/18/2019 6:39 PM	Location of Incident: Intersection of South Conduit Avenue and Farmers Boulevard	Precinct: 105	18 Mo. SOL 10/18/2020	EO SOL 6/4/2021	
Date/Time CV Reported Thu, 04/18/2019 6:52 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 04/18/2019 6:52 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Smith	27519	926140	105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Michelle Fecker	22924	941016	105 PCT
2. POM Jeffrey Roden	21702	952171	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Smith	Abuse: Police Officer Robert Smith refused to provide his name to § 87(2)(b)	
B.POM Robert Smith	Abuse: Police Officer Robert Smith threatened to issue summons to § 87(2)(b)	

## Case Summary

On April 18, 2019, § 87(2)(b) filed this complaint with the CCRB via the call processing system.

On April 18, 2019, at approximately 6:39 p.m., at the intersection of South Conduit Avenue and Farmer's Boulevard in Queens, Police Officer Robert Smith and Police Officer Jeffery Roden of the 105<sup>th</sup> Precinct stopped § 87(2)(b) for using her phone while driving. Once PO Smith prepared the summons, he returned to § 87(2)(b)'s vehicle. § 87(2)(b) was issued summons # § 87(2)(b) (Board Review 01). § 87(2)(b) took the summons and allegedly asked PO Smith for his and PO Roden's name and badge numbers. § 87(2)(b) handed him an envelope and PO Smith wrote down his badge number. PO Smith did not provide his name (**Allegation A: Abuse of Authority**, § 87(2)(g)). As PO Smith and PO Roden returned to their vehicle, § 87(2)(b) pulled into the parking lot of a nearby store. § 87(2)(b) called the 105<sup>th</sup> Precinct in order to file a complaint against PO Smith. Police Officer Michelle Fecker of the 105<sup>th</sup> Precinct answered the phone and spoke with § 87(2)(b). While on the phone, § 87(2)(b) became aware that PO Smith and PO Roden were parked directly behind her. PO Smith spoke into his vehicle's intercom and allegedly told § 87(2)(b) that she was trespassing and needed to leave before he issued her another summons (**Allegation B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was not issued any additional summonses.

The investigation obtained PO Smith and PO Roden's body-worn camera footage, which captures a portion of this incident (Board Review 02) (Board Review 03).

## Findings and Recommendations

### **Allegation (A) Abuse of Authority: Police Officer Robert Smith refused to provide his name to § 87(2)(b)**

§ 87(2)(b) (Board Review 04) testified that she was driving home from work when she stopped at the light located at the intersection of South Conduit Avenue and Farmer's Boulevard. While waiting for the light to turn green § 87(2)(b) put her phone on her charger, which was attached to her dashboard. The light changed and as § 87(2)(b) began to travel through the intersection, she was immediately alerted to a police vehicle behind her. § 87(2)(b) pulled over on the other side of the intersection in front of the Cheaper Peeper's to let the police car pass her. The vehicle stopped behind her and PO Smith and PO Roden approached. § 87(2)(b) could not see PO Roden because he stood in her blind spot. § 87(2)(b) asked PO Smith why she was being stopped and he informed her that it was because she was on her phone while driving. PO Smith ordered § 87(2)(b) to produce her license registration and § 87(2)(b) complied. PO Smith took her documents and returned to his vehicle with PO Roden. While waiting for the officers to return with her information, § 87(2)(b) wrote down "officer" and "badge #" on an envelope she had with her. PO Smith returned to her vehicle and handed her a summons. § 87(2)(b) took the summons and asked him if he could provide his name and shield number as well as his partner's. § 87(2)(b) did not see or interact with PO Roden at any point during the interaction because he stood in her blind spot for its entirety. PO Smith told § 87(2)(b) that he would write it down for her and § 87(2)(b) handed PO Smith the labeled envelope she had prepared. PO Smith wrote in large font a number that § 87(2)(b) assumed identified who he was. He did not write down his name or PO Roden's information. PO Smith

dropped the envelope into § 87(2)(b)'s lap and walked away. § 87(2)(b) submitted a photo of the envelope PO Smith wrote on when initially filing this complaint; the number "27519" is clearly written in large font (Board Review 05).

The investigation obtained PO Smith and PO Roden's body-worn-camera, which captures this portion of the incident (Board Review 02) (Board Review 03). At the 6:43 p.m. timestamp of PO Smith's camera, § 87(2)(b) asks PO Smith for his and PO Roden's badge numbers. PO Smith asks if he can write it down and § 87(2)(b) hands him an envelope. PO Smith writes his shield number on the paper, hands it back to § 87(2)(b) and walks back to the vehicle with PO Roden. At the 6:43 p.m. timestamp of PO Roden's camera, it appears that § 87(2)(b)'s passenger side window is rolled up as she speaks to PO Smith on the driver's side. The conversation between PO Smith and § 87(2)(b) cannot be heard in PO Roden's video.

PO Roden (Board Review 06) testified that he did not interact with § 87(2)(b) at any point during the incident. He stood on the passenger side for the entirety of her and PO Smith's interaction. PO Roden observed § 87(2)(b) hand the summons back to PO Smith and PO Smith write something down on it. PO Roden could not hear the conversation between PO Smith and § 87(2)(b) because South Conduit Avenue is a busy street.

§ 87(2)(g)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**Allegation (B) Abuse of Authority: Police Officer Robert Smith threatened to issue a summons to § 87(2)(b)**

During her intake call when initially filing this complaint, § 87(2)(b) stated that PO Smith drove up to her vehicle and threatened to issue her a summons because she was blocking the entrance to Cheaper Peeper's (Board Review 12).

During her CCRB interview on July 22, 2019, § 87(2)(b) (Board Review 04) testified that after PO Smith and PO Roden left her vehicle, she pulled in to the parking lot of the Cheaper Peeper's to gather herself. She called the 105<sup>th</sup> Precinct and PO Fecker answered the phone. § 87(2)(b) informed her that she wanted to file a complaint against PO Smith. While on the phone with PO Fecker, § 87(2)(b) saw that PO Roden and PO Smith were parked behind her. PO Smith spoke into the intercom and ordered § 87(2)(b) to leave the lot immediately. PO Fecker, who was still on the phone with § 87(2)(b) asked if the officer was speaking to her and § 87(2)(b) said yes. § 87(2)(b) asked PO Smith why she had had to move to which he responded, "Do you want me to issue you another ticket for trespassing?" § 87(2)(b) asked PO Smith how she was trespassing and he told her that she was on private property. PO Smith ordered § 87(2)(b) to leave a second time and threatened to issue her a summons for trespassing again. PO Fecker told § 87(2)(b) to remain on the phone with her until the officers left the location. PO Smith and PO Roden drove out of the parking lot and § 87(2)(b) left shortly after them.

PO Fecker (Board Review 07) testified that on April 18, 2019, she was working as the TS Operator for the 105<sup>th</sup> Precinct when she received a call from § 87(2)(b). She could not recall what § 87(2)(b) said specifically other than that she was screaming about a summons she had just received and the way the issuing officer treated her. PO Fecker confirmed that the officer § 87(2)(b) was speaking about was PO Smith, however, she could not recall the specific statements § 87(2)(b) made about him. PO Fecker did not hear PO Smith or anybody else in the background of their call.

PO Smith (Board Review 08) testified that after issuing § 87(2)(b) the summons, he and PO Roden drove one block East and parked in the private parking lot of a checks and cash store to resume patrol. Less than five minutes later § 87(2)(b) drove into the same parking lot and parked approximately 35 feet away in front of them, blocking their vehicle. § 87(2)(b) was screaming and honking her horn at the officers. PO Smith could not recall the specific statements § 87(2)(b) was making but he observed that she was on the phone. PO Smith went over the loud speaker and ordered § 87(2)(b) to move her vehicle. He could not recall if he told § 87(2)(b) she would be issued a summons if she did not move, however, he stated that § 87(2)(b) could have been issued a summons for disorderly conduct and blocking pedestrian traffic.

PO Roden (Board Review Board Review 06) could not recall anything specific about the incident on April 18, 2019. He could not recall what § 87(2)(b)'s demeanor was at any point during the incident. After PO Smith issued § 87(2)(b) the summons, PO Roden (who was operating the vehicle) and PO Smith parked in the Cheaper Peeper's parking lot. He could not recall if PO Smith went over the loud speaker at any point during the interaction nor could he recall if PO Smith threatened to issue § 87(2)(b) a summons. The officers did not have any further interaction with § 87(2)(b) or any other civilians until he conducted a separate vehicle stop near the location approximately 15 minutes later.

NYS Penal Law Section 240.20 states that a person is guilty of disorderly conduct when he makes unreasonable noise or obstructs vehicular or pedestrian traffic (Board Review 13).

§ 87(2)(g)  
[REDACTED]

### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) is a party (Board Review 09).
- PO Smith has been a member-of-service for 19 years and has been a subject in 13 complaints and 32 allegations.
  - 201115947 involved a substantiated allegation of offensive language (gender) against PO Smith. The Board recommended Charges and the NYPD imposed Formalized Training.
  - § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- On April 26, 2019, this case was sent to mediation and on June 18, 2019, the case was returned to investigation because PO Smith rejected mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]
- As of July 2, 2019, the New York City Office of the Comptroller has no record of Notice of Claim being filed in regards to this complaint (Board Review 11).

---

Squad No.: 7

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date